

UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF NEW HAMPSHIRE

United States of America

v.

Criminal No. 05-cr-194-JD

Alexander Matiz

O R D E R

The defendant is under indictment for conspiracy to commit mail fraud and is facing an estimated advisory guideline sentence of somewhere between eight and fourteen months. On September 29, 2005, he was released on bail subject to a number of conditions, including that he not commit any offense in violation of federal, state, or local law. On October 27, 2005, he was stopped at 10 p.m. for operating a motor vehicle without headlights. He provided the arresting officer with a false identity and was also operating after revocation for being an habitual offender. On November 1, 2005, he appeared before the magistrate judge for a bail revocation hearing pursuant to 18 U.S.C. § 3148, following which the magistrate judge determined that there are no conditions to assure that the defendant will not be a danger to the community and that he is unlikely to abide by any condition or combination of conditions. The defendant's release was revoked, and he was ordered detained. The defendant has filed a motion to vacate the magistrate's order and to allow release on

conditions (document no. 11), to which the government objects.

On this date the court held a hearing and reviewed a recording of the revocation hearing held before the magistrate. The defendant resides in Manchester and has significant contacts with the community. He was employed at the time of his arrest, and if released, can live with his mother in Nashua. He has a bachelor's degree from Daniel Webster College where he had a good academic record. The defendant has on two prior occasions been deemed to be an habitual offender under New Hampshire law, and at the time of his arrest for operating a motor vehicle without headlights, he was an habitual offender and therefore not permitted to operate a motor vehicle. The fact that he has twice been found to be an habitual offender, coupled with his most recent disregard of the requirement that he not operate a motor vehicle, is a clear indication that the defendant is a scofflaw and does not take his obligations as a citizen to comply with the motor vehicle laws of New Hampshire very seriously. The defendant has an alcohol problem and has previously taken part in a substance abuse program.

Based on the information provided at both hearings, there is probable cause to believe that while on release the defendant committed a state felony. Therefore, there is a rebuttable presumption that no condition or combination of conditions will

assure that he will not pose a danger to the safety of any other person in the community. This presumption has not been overcome, and given the defendant's driving record and substance abuse problem, the court finds that there is no condition or combination of conditions that will assure the safety of the community. The court affirms the detention order issued by the magistrate judge on November 2, 2005, and the defendant shall remain detained pending trial, subject to the terms and conditions set forth in that order of detention.

SO ORDERED.


Joseph A. DiClerico, Jr.
United States District Judge

November 21, 2005

cc: Michael J. Iacopino, Esquire
Arnold H. Huftalen, Esquire
U.S. Probation
U.S. Marshal